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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,226	04/08/2004	Sumet Singh	15670-075001/ SD2004-151	1313
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EXAMINER				
PARTHASARATHY, PRAMILA				
ART UNIT		PAPER NUMBER		
2436				
NOTIFICATION DATE		DELIVERY MODE		
05/13/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary

Application No.

10/822,226

Applicant(s)

SINGH ET AL.

Examiner

PRAMILA PARTHASARATHY

Art Unit

2436

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-91 is/are pending in the application.
- 4a) Of the above claim(s) 36-68 and 80-87 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35, 69-79 and 88-91 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Arguments

Applicant's arguments filed 11/30/2009 with respect to prior art rejection of claims 1 – 35 have been fully considered and are persuasive. The prior art rejection of 1 – 35 has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of 35 USC 112 Second paragraph.

Applicant's arguments filed 11/30/2009 with respect to double patenting rejection of claims 1 – 35, 69 – 79 and 88 – 91 with Patent 7,535,909 have been fully considered and are persuasive. The double patenting rejection of 1 – 35, 69 – 79 and 88 – 91 has been withdrawn.

Applicant's arguments with respect double patenting rejection of claims 1 – 35, 69 – 79 and 81 – 91 with copending application 11/271,133 have been fully considered but they are not persuasive. Examiner respectfully submits that

- "obtaining a collection of data items to be analyzed to identify the network attack, wherein said data items are parts of message that were sent over a data network", is analogous to "obtaining routing information from a packet communicated via a network, the routing information including a source address and a destination address", regardless of the wording, further data items are at least "a source and a destination address" (further recited/disclosed in instant dependent claims);
- "reducing said data item in said collection to reduce said data collection to a reduced data collection of reduced data items, wherein the reduced data items in the reduced data collection have a smaller size and a constant predetermined relation with data items in the data collection and at least some of the data items in the data collection that differ are

- reduced to the same reduced data item", is analogous to "maintaining a count of packets associated with a device associating with the routing information", regardless of the count of packets still maps to the instant limitation "reduced data item monitoring messages directed to specific computers" as recited and disclosed in instant dependent claims;
- "analyzing ... identifying common content indicative of the previously known network attack", is analogous to "identifying the device as a potentially malicious device when the count exceeds a threshold; mapping the source address into a source infected set and mapping the destination address into a destination infected set" and "selectively categorizing the source device associated with the packet as a suspicious device", regardless of the wording, further the claimed instant limitation disclosed/explicitly recited in instant dependent claims as "determining a list of first computers that are susceptible to a specified attack";
 - perhaps the only difficult difference that makes use of the alleged invention is "sending the common content to one or more of a signature blocker and a signature manager for use as a new signature in identifying the previously unknown intrusive network attack" vs. "adding the source address to the source infected set and adding the destination address to the destination infected set", the copending claims add the source and destination computers/devices infected set, where as the instant invention further adds the new signature to the list of previously unknown intrusive network attack list.

- Therefore, the main, and arguably only, difference is the structure used to make the determination of adding the source and destination addresses has been claimed in the instant claims more specifically by adding the previously unknown signature to the network attack list, it merely a substitution of what is used to make the detecting/identifying the network attack. Applicant's arguments are not persuasive and Examiner respectfully maintain the double patenting rejection with the copending application 11/271,133 (please refer the office action mailed on 10/22/2009).

Allowable Subject Matter

Claims 1 – 35, 69 – 79 and 88 – 91 are allowed, if a terminal disclaimer is filed to overcome the double patenting rejection with the copending application 11/271,133.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PRAMILA PARTHASARATHY whose telephone number is (571)272-3866. The examiner can normally be reached on 8:00a.m. to 5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser Moazzami can be reached on 571-272-4195. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Pramila Parthasarathy/
Primary Examiner, Art Unit 2436